

1 APPROVED: March 30, 2016

2 EFFECTIVE: April 11, 2016

3 SNOHOMISH COUNTY COUNCIL

4 Snohomish County, Washington

5
6 AMENDED ORDINANCE NO. 15-064

7
8 REVISING REGULATIONS

9 PERTAINING TO THE STATE ENVIRONMENTAL POLICY ACT

10 AND AMENDING SCC 30.61.035 AND 30.61.055

11
12 WHEREAS, specified levels of minor new construction are exempt from review
13 under the State Environmental Policy Act (SEPA), chapter 43.21C RCW, pursuant to
14 Washington Administrative Code (WAC) 197-11-800; and

15
16 WHEREAS, WAC 197-11-800(1)(c) allows jurisdictions the option of adopting the
17 maximum exempt thresholds in WAC 197-11-800(1)(d) in their own development codes,
18 provided a certain process is followed; and

19
20 WHEREAS, the state of Washington recently amended WAC 197-11-800 to
21 increase the maximum threshold levels for minor new construction that are exempt from
22 SEPA review; and

23
24 WHEREAS, establishing optional maximum thresholds for minor new
25 construction is left to the discretion of local jurisdictions for implementation; and

26
27 WHEREAS, Snohomish County Code (SCC or "County Code") section 30.61.035
28 specifies the SEPA exemption threshold levels adopted by the county for minor new
29 construction; and

30
31 WHEREAS, currently the exemption thresholds for minor new construction in
32 SCC 30.61.035 for residential structures, standalone landfill and excavation, agriculture
33 structures, and commercial development are less than permitted under WAC 197-11-
34 800(1); and

35
36 WHEREAS, compliance with development regulations in title 30 SCC is
37 determined during project review and required for all proposed development activity,
38 including minor new construction, independent of SEPA review; and

39
40 WHEREAS, compliance with County Code requirements constitutes adequate
41 analysis and mitigation of the specific environmental impacts of proposed development
42 activities; and

43
44 WHEREAS, the Snohomish County Planning Commission ("Planning
45 Commission") held a briefing on May 26, 2015, concerning the code amendments
46 contained in this ordinance; and

1 WHEREAS, the Planning Commission held a public hearing on June 23, 2015, to
2 receive public testimony concerning the code amendments contained in this ordinance;
3 and
4

5 WHEREAS, at the conclusion of the Planning Commission's public hearing, the
6 Planning Commission voted to approve the code amendments contained in this
7 ordinance as set forth in its recommendation letter dated June 30, 2015; and
8

9 WHEREAS, on March 9, 2016, and continued to March 30, 2016, the Snohomish
10 County Council ("County Council") held a public hearing after proper notice, and
11 considered public comments and the entire record related to the proposal contained in
12 this ordinance; and
13

14 WHEREAS, following the public hearing, the County Council deliberated on the
15 proposal contained in this ordinance;
16

17 NOW, THEREFORE, BE IT ORDAINED:
18

19 Section 1. The County Council adopts the following findings in support of this
20 ordinance:
21

22 A. The foregoing recitals are adopted as findings or conclusions as if set forth in full
23 herein.
24

25 B. The proposed amendment to SCC 30.61.035 will increase the exemption
26 thresholds for minor new construction as allowed under WAC 197-11-800(1)(c).
27 The proposed amendment to SCC 30.61.055 will clarify that the Snohomish
28 County Planning and Development Services (PDS) director or his/her designee
29 may act as the SEPA responsible official on the County's behalf.
30

31 C. In developing these proposed amendments, the County considered the Growth
32 Management Act's (GMA), chapter 36.70A RCW, planning goals, specifically
33 those goals related to permit processing and environmental protection. The
34 proposed amendments will help expedite the permit process for certain minor
35 new construction activities that fall below the increased SEPA exemption
36 thresholds while recognizing the ability of development regulations in title 30
37 SCC to address and mitigate adverse impacts to the environment. The proposed
38 amendments are consistent with:
39

40 GMA Planning Goal 7 (RCW 36.70A.020(7)): "Applications for both
41 state and local government permits should be processed in a timely
42 and fair manner to ensure predictability."
43

44 GMA Planning Goal 10 (RCW 36.70A.020(10)): "Protect the
45 environment and enhance the state's high quality of life, including
46 air and water quality, and the availability of water."
47
48

1 D. The proposed code amendments will better achieve, comply with, and implement
2 goals and policies from the Puget Sound Regional Council's Multicounty
3 Planning Policies (MPPs) by reducing the redundancy and administrative costs of
4 environmental review while still providing protection of the natural environmental
5 and strong public participation during the permitting process, including the
6 following Environmental Stewardship Goal and Development Pattern (DP) policy:
7

8 Environmental Stewardship Goal: "The region will safeguard the
9 natural environment by meeting the needs of the present without
10 compromising the ability of future generations to meet their own
11 needs."
12

13 MPP-DP-50: "Streamline development standards and regulations
14 for residential and commercial development, especially in centers,
15 to provide flexibility and to accommodate a broader range of project
16 types consistent with the regional vision."
17

18 E. The proposed code amendments comply with and implement policies from the
19 Snohomish County Countywide Planning Policies (CPPs) by reducing the
20 redundancy and administrative costs of environmental review while still ensuring
21 that county development regulations are adequate to mitigate environmental
22 impacts, including the following Economic Development (ED) policy:
23

24 ED-15: "The expeditious processing of development applications by
25 the County and the cities shall not result in the lowering of
26 environmental and land use standards."
27

28 F. The proposed code amendments were developed in consideration with, comply
29 with, and implement goals, objectives, and policies from the Natural Environment
30 (NE) and Economic Development (ED) chapters of the Snohomish County
31 Growth Management Act Comprehensive Plan (GMACP) General Policy Plan
32 (GPP), including:
33

34 Goal NE 1: "Continue existing and develop new county plans and
35 programs which establish priorities to protect and enhance the
36 natural environment through a coordinated policy framework to
37 maintain and improve the quality of life for Snohomish County. ..."
38

39 Objective NE 1.A: "Balance the protection of the natural
40 environment with economic growth, housing needs and the
41 protection of property rights."
42

43 Objective NE 1.B: "Accommodate population growth in a manner
44 that maintains and protects elements of the natural environment."
45
46
47

Objective NE 1.C: "Protect and enhance natural watershed processes, wetlands, fish and wildlife habitat conservation areas, shorelines, and water resources with the long-term objective of protecting ecological function and values."

Goal ED 2: "Provide a planning and regulatory environment which facilitates growth of the local economy."

Objective ED 2.A: "Develop and maintain a regulatory system that is fair, understandable, coordinated and timely."

ED Policy 2.A.1: "Snohomish County shall ensure that revisions to the Snohomish County Code result in a more understandable, accessible, and user friendly document which eliminates unnecessary and clarifies confusing code provisions."

ED Policy 2.A.2: "Snohomish County should stress predictability but maintain enough flexibility in the Comprehensive Plan and development codes to allow for timely response to unanticipated and desirable developments."

- G. The proposed code amendments meet the following requirements listed in WAC 197-11-800(c) which are necessary to raise the exempt levels:
1. Provide documentation that the requirements for environmental analysis, protection, and mitigation for impacts to elements of the environment have been adequately addressed for the development exempted as indicated in Exhibit 1.3.7.3 of the legislative record for this ordinance.
 2. Describe the notice and comment opportunities for the public, affected tribes, and agencies regarding permitting of development projects included in the increased exemption levels as indicated in Exhibit 1.3.7.4 of the legislative record for this ordinance.
 3. Before adopting the ordinance, provide a minimum of sixty days notice to affected tribes, agencies with expertise, affected jurisdictions, the Washington State Department of Ecology, and the public and provide an opportunity for comment. To meet this requirement, the notice period prior to the public hearing will be extended from ten to sixty days.
 4. Provide documentation describing how specific adopted development regulations and applicable state and federal laws provide adequate protections for cultural and historic resources when exemption levels are raised as indicated in Exhibits 1.3.7.5, 1.3.7.6 and 1.3.7.7 of the legislative record for this ordinance.

1 H. Procedural requirements.

- 2
- 3 1. The proposal is a Type 3 legislative action pursuant to SCC 30.73.010 and is
- 4 consistent with state law and chapter 30.73 SCC.
- 5
- 6 2. SEPA requirements with respect to this non-project action are satisfied through
- 7 the completion of an environmental checklist and the issuance of a Determination
- 8 of Nonsignificance on July 21, 2015.
- 9
- 10 3. A notice of intent to adopt the proposed code amendments was transmitted to
- 11 the Washington State Department of Commerce for distribution to state agencies
- 12 on June 29, 2015, although this ordinance is adopted pursuant to SEPA, and not
- 13 the GMA.
- 14
- 15 4. The public participation process used for the proposed code amendments has
- 16 complied with all applicable requirements of the SCC.
- 17
- 18 5. The Washington State Attorney General last issued an advisory memorandum in
- 19 December of 2006 entitled "Advisory Memorandum: Avoiding Unconstitutional
- 20 Takings of Private Property" to help local governments avoid the unconstitutional
- 21 taking of private property. The process outlined in the State Attorney General's
- 22 2006 advisory memorandum was used by the County in objectively evaluating
- 23 the regulatory changes proposed by the amendments.
- 24

25 I. This ordinance is consistent with the record.

- 26
- 27 1. Snohomish County's SEPA exemption thresholds for minor new construction in
- 28 SCC 30.61.035 are currently below the maximum levels allowed under WAC
- 29 197-11-800(1).
- 30
- 31 2. Proposed amendments to SCC 30.61.035 will raise exemption thresholds for
- 32 minor certain new construction within the range allowed under WAC 197-11-
- 33 800(1) and are intended to streamline regulatory processes while maintaining
- 34 existing levels of environmental protection.
- 35
- 36 3. The categorical SEPA exemptions created by this ordinance will not result in
- 37 environmental impacts that will not otherwise be addressed by applicable county
- 38 development regulations.
- 39
- 40 4. The proposed amendment to SCC 30.61.055 will clarify that the PDS director or
- 41 his/her designated SEPA lead can be the SEPA responsible official for proposals
- 42 for which PDS is the lead agency.
- 43

44 Section 2. The County Council makes the following conclusions:

- 45
- 46 A. This ordinance is consistent with the goals, objectives, and policies of the
- 47 County's GMACP.
- 48

1 B. This ordinance is consistent with Washington State law and the County Code.

2
3 C. The County has complied with all SEPA requirements with respect to this non-
4 project action.

5
6 D. The regulations proposed by this ordinance do not result in an unconstitutional
7 taking of private property for a public purpose.
8

9 Section 3. The County Council bases its findings and conclusions on the entire
10 record of the County Council, including all testimony and exhibits. Any finding which
11 should be deemed a conclusion, and any conclusion which should be deemed a finding,
12 is hereby adopted as such.
13

14 Section 4. Snohomish County Code Section 30.61.035, last amended by
15 Ordinance No. 03-034 on May 7, 2003, is amended to read:
16

17 **30.61.035 Exemption thresholds for minor new construction.**
18

19 (1) ~~((In accordance with))~~ As allowed under WAC 197-11-800(1)(c) and (d), the exempt
20 levels for minor new construction are as follows:
21

22 (a) The construction or location of any single family residential structures of ((20))
23 20 dwelling units or less within an urban growth area and 20 dwelling units or less
24 outside of an urban growth area;
25

26 (b) The construction or location of any multifamily residential structures of 60
27 dwelling units or less within an urban growth area and 25 dwelling units or less
28 outside of an urban growth area;
29

30 ~~((b))~~(c) The construction of a barn, loafing shed, farm equipment storage
31 building, produce storage or parking structure, or similar agricultural structure
32 ((agricultural structures referenced in WAC 197-11-800(1)(b)(ii))) covering
33 ((30,000)) 40,000 square feet or less;
34

35 ~~((e))~~(d) The construction of an office, school, commercial, recreational, service,
36 or storage ((buildings)) building ((in WAC 197-11-800(1)(b)(iii))) of ((12,000))
37 25,000 square feet or less and associated parking facilities designed for ((40)) 90
38 or fewer automobiles within an urban growth area and 12,000 square feet or less
39 and associated parking facilities designed for 40 or fewer automobiles outside of
40 an urban growth area;((, if the project site is:
41

42 —— (i) zoned for commercial use;
43

44 —— (ii) designated for commercial use by the comprehensive plan; and
45

46 —— (iii) served by public water and sanitary sewer;))
47

1 ~~((d))~~(e) The construction of a parking lot designed for 40 or fewer parking
2 spaces; and

3
4 ~~((e))~~(f) Any landfill or excavation of ~~((500))~~ 1,000 cubic yards or less throughout
5 the total lifetime of the fill or excavation.

6
7 (2) The exempt levels established in SCC 30.61.035(1) are based upon local conditions.
8

9 Section 5. Snohomish County Code Section 30.61.055, last amended by
10 Amended Ordinance No. 02-064 on December 9, 2002, is amended to read:

11
12 **30.61.055 Designation of responsible officials and consultation.**
13

14 (1) The responsible official shall be designated as follows:
15

16 (a) For those proposals for which the county is the lead agency, the responsible
17 official shall be the director of the lead department or his/her designee as
18 determined in SCC 30.61.045.
19

20 (b) For all proposals for which the county is the lead agency, the responsible
21 official shall make the threshold determination, supervise scoping and
22 preparation of any EIS, and perform any other functions assigned to the "lead
23 agency" or "responsible official" by those sections of the SEPA rules that are
24 adopted by reference in this title.
25

26 (2) The department shall be responsible for the preparation of written comments for the
27 county in response to a consultation request prior to a threshold determination,
28 participation in scoping, or reviewing a draft EIS. All consultation requests shall be
29 forwarded to the department who shall distribute them to appropriate departments with
30 expertise or jurisdiction for their timely preparation of written responses.
31

32 (3) Departments when responding to consultation requests from a lead agency through
33 the department pursuant to SCC 30.61.055(1)(b), or from a lead department where the
34 county is the lead agency, shall provide to the director or lead department in writing
35 such responsive data, comments, information, test results, and other material which it
36 possesses relevant to its area of jurisdiction or expertise.
37

38 Section 6. Severability and Savings. If any section, sentence, clause or phrase
39 of this ordinance shall be held to be invalid by the Growth Management Hearings Board
40 (Board), or unconstitutional by a court of competent jurisdiction, such invalidity or
41 unconstitutionality shall not affect the validity or constitutionality of any other section,
42 sentence, clause or phrase of this ordinance. Provided, however, that if any section,
43 sentence, clause or phrase of this ordinance is held to be invalid by the Board or
44 unconstitutional by a court of competent jurisdiction, then the section, sentence, clause
45 or phrase in effect prior to the effective date of this ordinance shall be in full force and
46 effect for that individual section, sentence, clause or phrase as if this ordinance had
47 never been adopted.
48

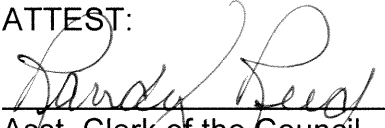
1 PASSED this 30th day of March, 2016.
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SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington



Terry Ryan
Council Chair

10 ATTEST:

11 
12 _____
13 Asst. Clerk of the Council
14

15 (☒) APPROVED
16 (☐) EMERGENCY
17 (☐) VETOED
18
19

DATE: 

County Executive

20 ATTEST:

21 
22 _____
23
24

25 Approved as to form only:
26
27

28 _____
29 Deputy Prosecuting Attorney

D-18